

Message Text

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21

ACTION NEA-09

INFO OCT-01 EUR-12 ISO-00 CIAE-00 PM-03 H-01 INR-07 L-02

NSAE-00 NSC-05 PA-01 RSC-01 PRS-01 SP-02 SS-15

USIA-06 SAB-01 SAM-01 NIC-01 OMB-01 AID-05 DLOS-03

COA-01 OES-03 CG-00 DOTE-00 FMC-01 /083 W

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R 020630Z FEB 75

FM AMEMBASSY KUWAIT

TO SECSTATE WASHDC 2112

INFO AMEMBASSY JIDDA

AMEMBASSY MANAMA

AMEMBASSY LONDON

CNO WASHDC

CINCUSNAVEUR

CINCPAC HONOLULU

CINCPACFLT

COMIDEASTFOR

C O N F I D E N T I A L KUWAIT 0507

E.O. 11652: GDS

TAGS: CFED, MILI, KU

SUBJECT: VISITS TO KUWAIT BY U.S. NAVAL VESSELS

REF: STATE 14687

SUMMARY: INFORMAL CONSULTATIONS WITH GOK MINISTRY FOREIGN AFFAIRS RE KUWAIT LAW REQUIRING DISPLAY OF KUWAITI FLAG AT FORE OF US NAVAL VESSELS IN KUWAIT PORTS HAS RESULTED IN IMPASSE WITH EMBASSY BEING ADVISED INFORMALLY ON JANUARY 29 THAT GOK MINISTER FOREIGN AFFAIRS UNWILLING TO "CONTRADICT NATIONAL LAWS" AND "CANNOT WAIVE SOVERIGNTY" ON ISSUE. EMBASSY RECOMMENDS MATTER NOT BE PURSUED FURTHER AT THIS TIME. END SUMMARY.

1. ON RECEIPT REFTTEL EMBASSY PREPARED DRAFT NOT CONTAINING SUBSTANCE U.S. POSITION ON FLAG ISSUE, STRESSING USG DESIRE CONTINUE

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PRACTICE OF PORT VISITS TO KUWAIT AND OUR VIEW THAT KUWAITI LAW RE

SUBJECT DOES NOT REFLECT CUSTOMARY INTERNATIONAL PRACTICE. WITH VIEW TO AVOIDING CONFRONTATION, DRAFT WAS DISCUSSED BY DCM WITH ACTING LEGAL ADVISER GOK FORMIN WHO AGREED TAKE SOUNDINGS TO DETERMINE WHAT KIND OF FORMAL RESPONSE TO GOK NOTE OF NOVEMBER 3 ON SUBJECT MIGHT OVERCOME PRESENT DIFFICULTY. COPY OF DRAFT NOTE LEFT WITH FORMIN OFFICIAL.

2. DURING ABOVE DISCUSSION, FORMIN LEGAL OFFICIAL: A) MADE CLEAR GOK RECOGNIZES RIGHT OF INNOCENT PASSAGE AND NON-INTERFERENCE IN INTERNAL AFFAIRS WARSHIPS AND OTHER "PUBLIC VESSELS" (HOWEVER, GOK DOES NOT CONSIDER FLAG DISPLAY REQUIREMENT REPRESENTS INTERFERENCE IN INTERNAL ADMINISTRATION OF NAVAL VESSEL); B) ACKNOWLEDGED PORT REGULATIONS NORMALLY ARE NOT LAW AND CAN BE SUBJECT TO INTERPRETATION

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BUT STATED KUWAITI PORT REGULATIONS, BASED ON AMIRI DECREE, LOCALLY ARE CONSIDERED "LAW"; C) VOLUNTEERED THAT ISSUE HAD SERIOUS LOCAL POLITICAL OVERTONES IN LIGHT RECENT US STATEMENTS CONCERNING AREA AND NOTED THAT US NAVY PRACTICE AT ADJACENT PORT OF RAS TANURA PRESENTED ADDED COMPLICATION FOR GOK WHICH WOULD BE HARDPRESSED TO EXPLAIN WHY "COURTESIES" AFFORDED SAG COULD NOT BE ACCORDED GOK; AND, D) EXPRESSED HOPE SOME DEVICE COULD BE FOUND TO OVERCOME PRESENT IMPASSE, PROMISED SEEK EQUITABLE SOLUTION AND AGREED IT BETTER TO POSTPONE ADDITIONAL FORMAL COMMUNICATIONS BETWEEN USG AND GOK RE SUBJECT UNTIL SOLUTION FOUND.

3. ON JANUARY 29 EMBASSY TOLD INFORMALLY THAT GOK FORMIN SHAIKH SABAH AL-AHMAD AL-JABER WAS "SORRY" BUT HE UNWILLING ACCEPT US POSITION ON ISSUE SINCE IT "CONTRADICTS NATIONAL LAWS" AND HE "CANNOT WAIVE SOVEREIGNTY" IN MATTER. AT SAME TIME, EMBOFFS ATTENTION CALLED TO SECTION 12 APPLICABLE KUWAIT PORT REGULATIONS (LAWS) WHICH SPECIFIES "SHIP OR VESSEL MEANS AND INCLUDES MERCHANT SHIPS AND WARSHIPS IN EXCESS OF 150 TONS GROSS REGISTERED TONNAGE."

4. IN VIEW POSITION TAKEN BY FOREIGN MINISTER, AND BECAUSE OF UNFAVORABLE CLIMATE FOR FURTHER DISCUSSIONS ISSUE AT PRESENT TIME, I RECOMMEND NO FORMAL RESPONSE BE GIVEN TO GOK NOTE NOVEMBER 3 AND THAT NO VISITS US NAVAL VESSELS TO KUWAIT BE SCHEDULED. ONCE CURRENT UNFAVORABLE ATMOSPHERE IMPROVES, WE CAN RAISE SUBJECT AGAIN. IN MEANTIME, I HOPE NAVY WILL AGAIN REASSESS LONG-TERM VALUE AND IMPLICATIONS OR PRESENT REGULATIONS GOVERNING FLAG DISPLAY.
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Disposition Authority: GolinoFR
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